IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Paul DiCarlo et al.	Art Unit	: 3736
Serial No.	: 10/728,248	Examiner	: Rene T. Towa
Filed	: December 4, 2003	Conf. No.	: 7802
Title	: MEDICAL INSTRUMENT		

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Commissioner for Patents
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REPLY BRIEF IN RESPONSE TO EXAMINER'S ANSWER DATED APRIL 21, 2010

Pursuant to 37 C.F.R. § 41.41, Appellant responds to the Examiner's Answer as follows.

The Examiner's proffered combination of Clement with Kornberg does not result in a medical instrument with the features recited by the pending claims. The Examiner likens the stylet retaining collar 36 of Clement to the first part of the stylet block of the pending claims, and likens the projection 94 to the second part of the stylet block. *See*, Examiner's Answer, p. 14 and 15. The Examiner's combination involves inserting the projection 94 and the track 158 of Kornberg into the device of Clement such that the projection 94 is attached to a larger diameter section 55 of Kornberg, which in turn carries the stylet 18 onto the stylet retaining collar 36 of Clement. *See, id.* However, this modified device simply does not satisfy the limitations of the pending claims.

Claim 1 requires the second part of the style block to be rotatably engaged with the first part. Contrary to the Examiner's assertion, the Appellant's specification gives ample support for the term "rotatably engaged" as used in the claims. As detailed in the specification, "rotatably engaged" means that the second part is not only engaged to the first part, but is able to rotate with respect to the first part, along an axis of the stylet. See, e.g., US 2005/0124914, [0021]. As illustrated in Fig. 2 (reproduced below) and explained in its description, the disclosure explicitly states that

> Inner part 28 is connected to stylet 18 and can rotate within outer part 26, about the longitudinal axis 58 of the stylet. More specifically, inner part 28 includes a projection or an arm 36 extending radially outward from the inner part and engaging with a track 38. *See,* US 2005/0124914, [0021].

Track 38 extends helically in a direction (A) parallel to axis 58 so that as stylet block 22 is propelled distally along direction A during use, projection 36 travels along the track and rotates inner part 28 and stylet 18 (arrow B). *See, id.*

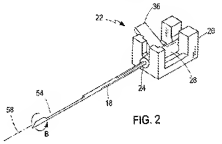

FIG. 2

Thus, as projection 36, which is attached to the inner (second) part 28, travels along the track, the inner part 28 rotates with respect to the outer (first) part 26, and that the outer part 26 is not rotated as a result of the rotation of inner part 28.

In the proposed combination of Clement and Kornberg, the Examiner has not shown that projection 94 is rotatably engaged to the stylet retaining collar 36 as claimed by Appellant. In addition, it is not clear what using "a larger diameter section 55 of Kornberg et al. to carry the stylet 18 onto the retainer block 36 of Clement et al." as stated by the Examiner would entail. In any case, the Examiner has not demonstrated how such a configuration would allow the projection 94 to be rotated relative to the stylet retaining collar 36.

In fact, Clement explicitly teaches that the stylet 18 is attached to the stylet retaining collar 36, (*see*, Clement, col. 3, lines 22-24). Thus, the requirements of the pending claims cannot be satisfied in any of the Examiner's suggested combinations should the Examiner continue to liken stylet retaining collar 36 to the first part of the stylet block in the pending claims. The pending claims require that the proximal end of the stylet be attached to the second part of the stylet block. If the first part is also attached to the stylet, as is the case in the Examiner's proffered combination, then the first and second parts both rotate together with the stylet, such that there cannot be any relative rotation between the first and second parts for them to be "rotatably engaged" in the manner described in the Appellant's specification.

At best, in the combination suggested by the Examiner, the projection 94 is engaged to the larger diameter section 55 and these two parts rotate together, as is originally taught by

Kornberg ("..driving pin 94 fixedly secured to larger diameter section 55…", *see*, Kornberg, col. 9, lines 35-36.). In no way does such a configuration satisfy the requirement of the pending claims that the second part be rotatably engaged with the first part.

Sher simply fails to disclose a second part that is rotatably engaged to a first part, therefore Sher does not cure the deficiency of the Clement/Kornberg combination.

For these reasons, and the reasons stated in the Appeal Brief, Applicant submits that the final rejection should be reversed.

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Respectfully submitted,

Date: June 18, 2010

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